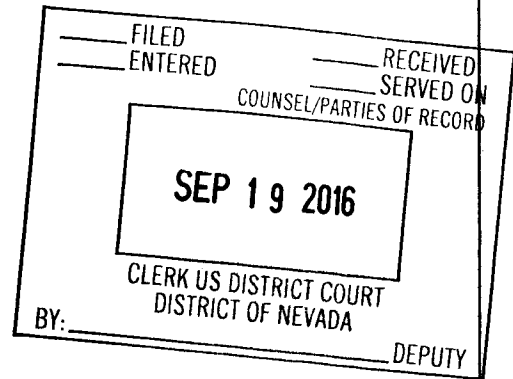


Ronald Williams  
Jann Williams  
258 Bonnie Claire Court  
Henderson, Nevada 89074  
  
702 270-9937



**UNITED STATES DISTRICT COURT**

**NEVADA DISTRICT**

RONALD WILLIAMS and JANN ) **Case No. 2:16-cv-01860-GMN-NJK**  
WILLIAMS, )  
 ) **COUNTER-CLAIMANTS' NOTICE OF MOTION**  
 ) **AND MOTION FOR ENTRY AND JUDGMENT**  
Counterclaimants, ) **OF DEFAULT ON COUNTER-CLAIM**  
 ) **ALLEGING MALICIOUS PROSECUTION**  
 ) **BY WRONGFUL CIVIL PROCEEDING, ABUSE**  
v. ) **OF THE JUDICIAL PROCESS, Request for**  
 ) **PUNITIVE DAMAGES.**  
DUKE PARTNERS, LLC )  
 )  
Counterclaim ) **Date: \_\_\_\_\_**  
Defendant. ) **Time: \_\_\_\_\_**  
 ) **Place: Courtroom 7**  
 )

**TO: THE HONORABLE GLORIA M NAVARRO, CHIEF JUDGE OF THE UNITED STATES DISTRICT COURT, NEVADA DISTRICT and**

**Mr. John T. Steffen, Counsel-designee of Hutchison & Steffen, the Attorney of Record for Counterclaim Defendant Duke Partners, LLC and**

**PLEASE TAKE NOTICE that on \_\_\_\_\_,**

1 move the Court for entry of default and Judgment by Default on  
2 their Counter-claim for damages as above specified.

3 On August 24, 2016, Counter-claimants Ronald Williams and  
4 Jann Williams caused service of Summons and Complaint at the law  
5 offices of Hutchison & Steffen, LLC, 10080 West Alta Drive,  
6 Suite 200, Las Vegas, Nevada 89145. (Exhibit 1)

7 The summons specifies Counterclaim Defendant Duke Partners  
8 had twenty days from date of service of the summons on August  
9 24, 2016 to answer the attached above titled and specified  
10 complaint. Never the less, as of September 17, 2016, the  
11 defendants have failed to answer or otherwise respond to the  
12 Complaint.

13 This Motion is made based on the Motion, Counter-  
14 claimants' Answer To Counter-claim Defendants Complaint for  
15 Unlawful Detainer, but also Counter-claim Defendants Federal  
16 Complaint alleging False Representation Concerning Title, Quiet  
17 Title, Fraudulent Conveyance, Intentional Infliction of  
18 Emotional Distress and for Illegal Foreclosure.

19 Respectfully submitted,

20 Date: September 18, 2016

21 Ronald Williams, in pro per

22 Date: September 18, 2016

23 Jann Williams, in pro per

1                                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2   **I**

3   **Facts**

4                   On **June 24, 2016** in a parking lot at the intersection of  
5  
6 4<sup>th</sup> Street and Charleston in the City of Las Vegas, National  
7 Default Servicing Corporation, in its stated capacity as a third  
8 party vendor hired by JP Morgan Chase Bank (Federal Complaint,  
9 paragraph 3, referring to Exhibit One, page 26 and Exhibit 2,  
10 page 27) is purported to have sold the Plaintiffs' home to  
11  
12 herein Counter-claim defendant Duke Partners, LLC.

13                   On **August 5, 2016**, in response to the purported sale, the  
14 Plaintiffs filed with the United States District Court a  
15 Complaint that among other causes, alleges a wrongful  
16 foreclosure. Federal Court jurisdiction was invoked under 28  
17 U.S.C. 1331, because Defendant National Default Servicing  
18 Corporation and Duke Partners II, are foreign entities. It has  
19 been recently stated in the Case that there is no such thing as  
20 a wrongful foreclosure. The State's highest court differs. In  
21 McKnight Family, LLP v. Adept Management Services, 310 P.3d 555,  
22 559 (2013), the Nevada Supreme Court held:

23                                   "A wrongful foreclosure claim challenges  
24  
25                                   the authority behind the foreclosure, not  
26  
27                                   the foreclosure act itself". [citation omitted]  
28

1           The Federal Complaint while citing and relying on N.R.S.  
2 205.395, challenges the authority behind the foreclosure: by  
3 with specificity and exactness, repudiating each and every  
4 filing made with the Clark County Recorder to facilitate the  
5 above sale that was conducted in the parking lot on June 24,  
6 2016 between National Default Servicing Corporation and herein  
7 Counter-claim defendant Duke Partners II. The Federal action  
8 challenges the authority as it is declared by each person  
9 defendant of the Federal action, to encumber and place liens on  
10 the Plaintiffs' property by filings each of them did or caused  
11 to be done with the Recorder for Clark County.  
12

13  
14           On August 4, 2016 by conduct commonly referred to as  
15 "**forum shopping**", preempted under N.R.S. 4.370(g), the law  
16 offices of Hutchison & Steffens, through counsel-designee Casey  
17 J. Nelson, filed a Complaint For Unlawful Detainer with the  
18 Justice Court, Henderson Township, Clark County, Nevada. The act  
19 is characterized as forum shopping: Because the filing violates  
20 Justice Court jurisdiction mandated by subsection "(g)" of the  
21 cited N.R.S. jurisdictional statute. Because no landlord tenant  
22 relationship exists between Duke Partners II and Plaintiffs  
23 Ronald and Jann Williams. Rather, the eviction is an action that  
24 seeks to enforce a Trustee's Deed Upon Sale, alleged by the  
25  
26  
27  
28

1 Federal wrongful foreclosure action as having been recorded  
2 under circumstances violating N.R.S. 205.395.

3       On August 24, 2016 filed concurrently with their answer to  
4 the Complaint for Unlawful Detainer, Ronald Williams and Jann  
5 Williams filed and caused service of the since defaulted on  
6 Counter-claim against Duke Partners, LLC, that alleges Malicious  
7 Prosecution by wrongful civil proceeding and Abuse of Process.  
8 Punitive damages were requested - included was the request that  
9 the amount deemed appropriate by the Court. A Notice to remove  
10 the unlawful detainer action and the counterclaim was filed with  
11 the Courts (state and federal) and served on the counter-claim  
12 defendant on August 22, 2016.

13       Despite removal, on September 13, 2016, the Justice Court  
14 conducted a full hearing on the Unlawful Detainer Complaint in  
15 Department 2. Over the vigorous objection by herein Plaintiff  
16 and counterclaimant Ronald Williams, the Justice Court, prompted  
17 by open court arguments of Counsel Casey Nelson of behalf of the  
18 Duke Partner defendants, retained jurisdiction of the unlawful  
19 detainer action, and ordered the parties to return for a status  
20 conference on October 17, 2016. [Declaration of Ronald Williams]  
21

22       On September 17, 2016 Ronald Williams and Jann Williams,  
23 who are the Plaintiffs of the instant Federal action and Counter  
24  
25  
26  
27  
28

1 Claimants of the unlawful detainer action, received service by  
2 United States mail, Motion To Remand. Restating the arguments  
3 made by Counsel before the Justice Court, but without regard to  
4 NRS 4.370 "(g)", the Duke Counsels restate the argument now  
5 before the Honorable Federal Court of there being legal  
6 justification to remand the matter of unlawful detainer to the  
7 Justice Court.  
8

9  
10 II

11 Argument

12 A

13 Default By the Court On the Counter-Claim Is

14 Legal, Just and Provided by Law

15 Nevada Revised Statute section 55, the statutory spitting  
16 image of Federal Rules of Civil Procedure section 55, specifies  
17 where a party against whom a judgment for affirmative relief  
18 fails to plead or otherwise defend, and the failure is shown by  
19 affidavit or otherwise, the clerk must enter the party's  
20 default. The Plaintiffs as moving party must apply to the Court  
21 for the default judgment.  
22

23  
24 The summons for the Counter-claim, informed by the Summons  
25 for the unlawful detainer, was served at the offices of Counsel  
26 representing Duke Partners at 10080 West Alta Drive, Las Vegas,  
27 Nevada 89145. Personal service was effected on August 25, 2015,  
28

1 therefore making an answer or other response due by September  
2 14, 2015. This Motion is being made on September 17, 2016,  
3 because the cross claim defendant Duke Partners LLC has failed  
4 to defend or otherwise answer the counter-claim.  
5

6 B

7 Given the Controversy Underlying the Unlawful  
8 Detainer Complaint, the Justice Court Is Manifestly  
9 Shown Not To Be the Proper Forum, Therefore,  
10 Supporting the Default On Claim of Abuse of Process  
11

12 Abuse of Process arises from one party making a malicious  
13 and deliberate misuse or perversion of regularly issued court  
14 process not justified by the underlying legal action. [Wikipedia  
15 the Free Encyclopedia) See also, *Coleman v. Gulf Insurance Group*  
16 (1986) 41 Cal.3d 782, 792, 226 Cal.Rptr. 90, 718 P.2d 77)  
17

18 In addition to improper forum for disputes over law not  
19 involving a landlord and tenant, the rush to judgment by use of  
20 the apparatus of the justice court, is argued by the since  
21 default on counter-claim as purposed to circumvent the judicial  
22 process of the United States District Court, but also the  
23 administrative process under 12 U.S.C. 1821(d) et seq. and the  
24 claim the Plaintiffs have submitted to the Federal Deposit  
25 Insurance Corporation. [Federal Complaint, Exhibit 3, page 29  
26 through 106] The proper adjudication of the claim that if  
27  
28

1 prevailed, will result in the taking of the Plaintiffs' home,  
2 transferring possessory and ownership interest from them to the  
3 Duke Partner cross claimant defendants. Here, by the filing of  
4 the unlawful detainer complaint in Justice Court, by open court  
5 arguments before that court, and by the recently filed Motion  
6 for Remand: The Duke Partner cross-claimant defendants are  
7 seeking adjudication of their claim of having acquired ownership  
8 interest in the Plaintiffs' home, by a summary proceeding  
9 suitable for disputes between landlords and tenants, thereby  
10 circumventing the process of a full trial on the merits of their  
11 claim.  
12  
13

14 Moreover, it is in the face of and contrary the court  
15 filings showing a summary proceeding as not being proper in the  
16 regular conduct of a proceeding, that the Duke Partner counter  
17 claim defendants through counsel, seek to circumvent the full  
18 trial on the merits of their claim, by a summary proceeding that  
19 constitutes unlawful detainer between landlords and tenants.  
20

21 Finally, even Duke Partners prevail on the pending  
22 dismissal motion, the regular conduct of a proceedings where the  
23 issue to be decided is the ownership and possessory interest in  
24 land, is a full trial on the merits  
25  
26  
27  
28



**III****Conclusion**

The cross claim defendants are in default. The reason for the default is no doubt that it does not have a valid defense or explanation for seeking to circumvent the Federal judicial process being conducted to determine whether the foreclosure at issue was wrongful under existing law. Had Duke Partners somehow prevailed on the unlawful detainer action while the Federal Court was deciding the issue of the foreclosure, the decision would have pulled the rug from under the Federal court and its ability to enforce any judgment rendered in the Plaintiffs' favor. This is also true as it pertains to the claim made by them to the Federal Deposit Insurance Corporation. The Record shows and Duke Partners is well aware that inquiry to the F.D.I.C. as it pertains to the efficacy of the corporate assignment instrument, (Federal Complaint, Exhibit 4, page 107) if resolved in the Plaintiffs' favor, would defeat any claim JP Morgan Chase Bank held on the underlying mortgage note, therefore, the claim of ownership interest in the Plaintiffs' property.

The Court should impose severe sanctions against not only the Duke Partner counterclaim defendants, but also Counsel. Both are well aware that an unlawful detainer action is sorely not

1 the proper forum to secure judgment to enforce, here, a Deed of  
2 Trust Upon Sale, that if adopted, would transfer the ownership  
3 of the Plaintiffs' home, thus the right to use, possess and  
4 enjoy their property.  
5

6 Another point regarding the surreply: In a spurious effort  
7 to maximize their right to defend while minimizing the  
8 Plaintiffs right to litigate, the two sets of defendants  
9 represented by two different law firms, elected to circumvent  
10 the Plaintiffs' right to respond by one law firm proceeding by  
11 the dismissal motion, while the other the reply to the  
12 Plaintiffs' opposition to the Motion. This resulted in two  
13 distinct and separate set of arguments against the Complaint,  
14 while limiting the Plaintiffs to a signal response. Ordinarily  
15 two sets of Defendants would either consolidate the dismissal  
16 motion or proceed by two separate Motions. The surreply is the  
17 Plaintiffs' prudent response to having to present opposing  
18 argument to the reply, separate and apart from the dismissal  
19 motion. It should be also noted that each Defendant entered the  
20 case by informal service but without waiver.  
21  
22  
23

24 But when the action in the Justice Court seeking to evict  
25 is viewed with among the arguments raised in the reply by the  
26 second law firm, the ulterior motive was to terminate the  
27 Plaintiffs' status as owner of the premise, while relying on  
28

1 subsection 5 of N.R.S. 205.395 that only makes owners the  
2 beneficiary of this statute. [See, page 1, paragraph 1 - Reply  
3 In Support of Duke Partners II, LLC's Motion To Dismiss With  
4 Prejudice] Counsel **John Steffen** pleading on behalf of the **Duke**  
5 **Partner** defendant, is **NOT** the Counsel who filed the dismissal  
6 Motion. That motion was filed by **Gregory L. Wilde** on behalf of  
7 Defendant **National Default Servicing Corporation** and the  
8 employee-defendants. Since Steffen did not oppose the Complaint,  
9 he lacked capacity to reply. Doing so was an attempt on Mr.  
10 Steffen's part to frivolously pierce the pleadings of the  
11 parties - National Default, etc. and the motion to dismiss, and  
12 the Plaintiffs' opposition.

13  
14  
15 Counsel **John Steffen's** spurious use the process for replies  
16 to preclude the Plaintiffs' right of response, while relying on  
17 the apparatus of the Justice Court: Is a litigation tactic,  
18 taken in bad faith, to remove **N.R.S. 205.395** as a statute the  
19 Plaintiffs rely in bringing the wrongful foreclosure action. It  
20 would only work however, had Counsel's effort before the Justice  
21 Court been a success. The conduct of Counsel Steffen's just  
22 described, is the obstruction of justice as prescribed under 18  
23 U.S.C. 1503.

24  
25  
26 From the foregoing, after declaring the Defendant's  
27 default on the counterclaim to the unlawful detainer complaint,  
28


Default JUDGMENT MOTION  
-11-

1 the Court to discourage further abuses of process, should access  
 2 punitive damages against the Duke Partner defendants as well as  
 3 Counsel, joint and severally in the amount of Two-hundred  
 4 thousand dollars, (\$200,000.00) plus the Plaintiffs' costs for  
 5 pursuing this action. Counsel Steffen's well thought out tactic  
 6 to nullify the beneficial effect of N.R.S. 205.395, is a  
 7 contempt of the judicial process that should not be tolerated by  
 8 the Court.  
 9


10  
 11 **A footnote:** The scheme detailed above to nullify the  
 12 benefit of N.R.S. 205.395 and home owners, through use of the  
 13 unlawful detainer apparatus of the Justice Court for a quick  
 14 eviction, is also being practiced against Ms. Geraldine Twice, a  
 15 homeowner similarly situated, who is presently in Federal court.  
 16 Geraldine Trice v. National Default Servicing, etc.  
 17

18  
 19 Respectfully submitted,  
 20

21 Date: Sept. 17, 2016

22   
 Ronald Williams, in pro per

23  
 24 Date: Sept. 17, 2016

25   
 Jann Williams, in pro per  
 26  
 27  
 28

**P**

**R**

**O**

**P**

**O**

**S**

**E**

**D**

**ORDER**

Ronald Williams  
 Jann Williams  
 258 Bonnie Claire Court  
 Henderson, Nevada 89074  
 702 270-9937

**UNITED STATES DISTRICT COURT**  
**NEVADA DISTRICT**

RONALD WILLIAMS and JANN )	Case No. 2:16-cv-01860-GMN-NJK
WILLIAMS, )	
)	
)	
<b>Counterclaimants,</b> )	
)	
	<b>PROPOSED ORDER</b>
<b>v.</b> )	
)	
DUKE PARTNERS, LLC )	
)	
<b>Counterclaim</b> )	
<b>Defendant.</b> )	
)	
)	

Pending before the COURT is the Motion made by herein  
 Counterclaimants Ronald and Jann Williams for Entry and Judgment  
 by default against herein Counter-Claim Defendant Duke Partners  
 II, L.L.C., on the Counter-claim to the Complaint by Duke  
 Partner LLC for Unlawful Detainer. The Counter-claim alleges  
 Malicious Prosecution by Wrongful Use of Civil Proceeding and

1 for Abuse of Process, with request for punitive damages. For  
2 reasons specified below, the COURT GRANTS the Motion.

3 On August 24, 2016, Counter-claimants Ronald Williams and  
4 Jann Williams caused personal service on Counter-Claim Defendant  
5 Duke Partner LLC, a counter claim to the unlawful detainer  
6 Complaint, alleging Malicious Prosecution by wrongful civil  
7 proceeding, Abuse of the Judicial Process, along with a request  
8 for significant punitive damages. To date - September 19, 2016,  
9 the cross-claim defendant has failed to plead or otherwise  
10 defend against the counterclaim.  
11

12  
13 **a. Malicious Prosecution By Wrongful Civil Proceeding**

14 In order to find a person liable for wrongful civil  
15 Proceeding, the proceeding at issue must have been initiated for  
16 a purpose other than that of securing the proper adjudication of  
17 the claim on which they are based. *Dutt v. Kremp*, 844 P.2d 786,  
18 790 (Nev. Supreme CT., Dec. 31, 1992)  
19

20 When on August 4, 2016 Counsel on behalf of counter-claim  
21 defendant Duke Partners LLC selected the Henderson Township  
22 Justice Court as a forum to file the unlawful detainer action  
23 against herein counter-claimants Ronald Williams and Jann  
24 Williams, he thus the Duke Partner LLC defendant knew, had  
25 reason to know and was held to know the jurisdictional  
26 impediment subsection "(g)" of N.R.S. 4.370 posed to the  
27  
28

1 selection: That prohibits actions for the possession of lands  
2 where the relation of landlord and tenant exists, when the  
3 damages claimed do not exceed \$10,000.

4  
5 The Trustee's Deed Upon Sale attached too and made part of  
6 the unlawful detainer complaint shows the scope and purpose of  
7 the action was to enforce by eviction the deed upon sale that if  
8 enforced, would involuntarily transfer ownership and possessory  
9 interests of the counter-claimants home from them to herein  
10 cross claim defendant Duke Partner, L.L.C.; Not based on the  
11 claim of breach of contract by non-payment of rent, but based on  
12 the purported non-judicial foreclosure sale of the Plaintiffs'  
13 property.  
14

15 This Court that had assumed jurisdiction of the Complaint  
16 by the herein cross claimants alleging among others, a wrongful  
17 foreclosure under N.R.S. 205.395, finds that the initiation of  
18 the Complaint alleging unlawful detainer, is an act/action whose  
19 ulterior purpose was to circumvent this Court's jurisdiction of  
20 the Case based on the claim of wrongful eviction, by removing as  
21 issue, the question of ownership and possessory interest of the  
22 subject property. The Case before this Court based on the claim  
23 of wrongful eviction, is so intertwined with the Case filed with  
24 the Justice Court for unlawful detainer, it cannot be dismissed  
25 with any degree of candor, the ulterior purpose of the latter  
26  
27  
28



1 (unlawful detainer) was to circumvent the process of the former  
2 (wrongful eviction) The Court notes that while the unlawful  
3 detainer is shown as filed with the Justice Court on August 4,  
4 2016, it was not served on the herein counterclaim plaintiffs  
5 until August 20, 2016, therefore fifteen days after this Court's  
6 jurisdiction of the wrongful eviction action.  
7

8 Ordinarily, the mere filing of the unlawful detainer action  
9 in contravention of the Justice Court's jurisdictional  
10 requirements would constitute an abuse of the judicial process.  
11 However, on September 13, 2016, Counsel appeared as scheduled  
12 before the concerned Justice Court, and on or about September  
13 16, 2016 by Motion before this Court: The Justice Court  
14 appearance and remand Motion made to this Court, renews that the  
15 unlawful detainer action be remanded to the Justice Court,  
16 despite doing so would contravened NRS 4.370(g), the  
17 jurisdictional limits of the State's Justice Court.  
18

19  
20 **b. The Counter-claim Defendant's Default**

21 N.R.S. 55 the statutory twin of Federal Rules of Civil  
22 Procedure, Rule 55 mandates where a party against whom a  
23 judgment for affirmative relief is sought, fails to plead or  
24 otherwise defend, here, within the time specified by the summons  
25 on the counter-claim to the claim of unlawful detainer, the  
26  
27  
28

1 Clerk must enter the default and the Court upon motion enter a  
2 judgment by default.

3       The Court finds that on August 25, 2016, herein counter  
4 claim defendant Duke Partners, LLC received personal service of  
5 the subject summons and complaint, at the office of Counsel  
6 located at 10080 West Alta Drive, Suite 200, Las Vegas, Nevada  
7 89145, and that service was made on a person identified as  
8 "Bobbi" an office assistant who was authorized to receive  
9 service. The summons specified that within 20 days of service, a  
10 formal written response to the cross-complaint and serve a copy  
11 upon the attorney - in this case cross-claimants in pro per  
12 Ronald and Jann Williams, at their address, 258 Bonnie Claire  
13 Court, Henderson, Nevada 89074.  
14  
15

16       The Court finds that more than 20 days have passed without  
17 herein cross-claim defendant Duke Partners, LLC having filed a  
18 written response with the Court. Therefore, finds cross-claim  
19 Defendant Duke Partners LLC in default on the cross complaint  
20 for damages.  
21  
22

23       The Court further finds the cross-claim defendants liable  
24 for the since defaulted on counter-claim alleging abuse of  
25 process, in that filing the unlawful detainer with the State's  
26 Justice Court was not for the purpose of securing the proper  
27 adjudication of the competing claim of right of ownership and  
28

1 possessory interest in the subject property, but to use the  
2 process for unlawful detainer despite it not being proper in the  
3 regular course of judicial proceeding based on the claims. *Dutt*  
4 *v. Kemp*, 844 P.2d 786, 790 (Dec. 1992).

6 IT IS ORDERED THAT CROSS-CLAIM DEFENDANT DUKE PARTNERS II  
7 IS IN DEFAULT ON ANSWERING THE CROSS-COMPLAINT;

8 IT IS FURTHER ORDERED THAT THE UNLAWFUL DETAINER COMPLAINT  
9 FILED WITH THE HENDERSON TOWNSHIP JUSTICE COURT, UNDER CASE  
10 NUMBER 16CH22053 IS PREEMPTED UNDER N.R.S. 4.370(g), therefore a  
11 deliberate abuse of process.  
12

13 IT IS FURTHER ORDERED DUKE PARTNERS, LLC BE LIABLE TO  
14 PLAINTIFFS RONALD WILLIAMS AND JANN WILLIAMS FOR PUNITIVE  
15 DAMAGES IN THE AMOUNT OF \_\_\_\_\_, and that Duke  
16 Partners be liable for all costs associated with this action.  
17

18  
19 IT IS SO ORDERED  
20

21  
22 GLORIA M. NAVARRO, CHIEF JUDGE  
23 UNITED STATES DISTRICT COURT  
24 NEVADA DISTRICT  
25  
26  
27  
28

**PROOF OF SERVICE BY MAIL**

I Ronald Williams declare:

On September 19, 2016, I served Counter-Claimants' Notice of Motion and Motion for entry and judgment by default on counterclaim to a complaint for unlawful detainer, the counterclaim alleging malicious prosecution, wrongful civil proceeding, abuse of the judicial process, with request for punitive sanctions and Proposed Order;

By placing the aforesaid in an envelope and mailing it first class postage prepaid to the following persons and locations:

1) Mr. Gregory L. Wilde: Counsel of Record for National Default Servicing Corporation, Michael A. Bosco, Wendy Van Lauren and Carmen Navejas;


212 South Jones Blvd.  
Las Vegas, Nevada 89107; and,

2) Mr. John T. Steffen: Counsel of Record For Duke Partners II, LLC

10080 West Alta Drive, Suite 200  
Las Vegas, Nevada 89145.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 19<sup>th</sup> day of September 2016, City of Henderson, County of Clark, State of Nevada.

  
Declarant

ORIGINAL